

Appln. No. 10/612,445
Filing Date 07/02/2003
Inventor Magnusson

REMARKS/ARGUMENTS

Claims 1-14 have been cancelled, and new claims 15-26 have been added. Independent claim 15 recites a method for packaging and stabilizing a food product (specification, p.3, line 21 to p. 4, line 6.) A container having a base layer of liquid absorbing material and inner and outer polymeric layers is provided, and a food product is added to the container under non-aseptic conditions, that is, the food product has not been sterilized or pasteurized prior to addition to the container. Thereafter the container is closed and sealed against outside microbial attack, and then exposed to moist heat in order to stabilize the food product (specification, p.11, lines 15-19.) The container is then cooled (specification, p. 11, lines 6-15.) The container retains sufficient dimensional stability and mechanical strength even after exposure to moist heat to allow transport and storage (specification, p.1, lines 18-22 describing these requirements in general terms, and p. 10, lines 7-15 reciting that a container of the invention meet these requirements.)

Dependent claims 16-26 recite various additional features of the invention, such as the composition of the polymeric layers and the heating conditions of the method. Specific examples of suitable polymers for the inner and outer polymeric layers are provided in the specification at least on page 5, lines 1-14. The conditions for effecting sterilization and pasteurization (claims 18 and 19) are provided on page 11, line 15 to page 12, line 8, including an explanation of F_0 (claim 26).

Applicant wishes to thank Examiner Rayford for the courteous personal interview of December 16, 2004 at which the art of record and the claims were discussed. Also discussed was the possibility of amending the claims to emphasize packaging features. No agreement was reached as to allowable subject matter. New claims 15-26 include recitations consistent with the packaging features discussed at the interview, and emphasize the conditions under which a container having the structure claimed is treated with moist heat in accordance with the invention.

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Claims 1-14 were rejected under 35 U.S.C. §112. The cancellation of these claims, and the presentation of new claims 15-26, is believed to obviate the basis for this rejection. Should the Examiner have any remaining issues with respect to indefiniteness, she is encouraged to call the undersigned so as to expedite resolution.

Claims 1-14 were also rejected under 35 U.S.C. §102 as being anticipated by Koskiemi et al. This reference relates to a method of making containers via heat sealing. However, there is no teaching of a method for stabilizing a food product by exposing a sealed container to moist heat, as claimed by applicant. Nor is there any teaching in Koskiemi et al of carrying out such a method in a manner such that dimensional stability and mechanical strength of the container are maintained, also as claimed by applicant. Koskiemi et al thus fails to anticipate the invention as claimed.

Koskiemi et al also fails to render obvious the claimed invention. There is no mention in Koskiemi et al of a method of any kind for stabilizing a food product, much less the method claimed by applicant.

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In view of the above, the Examiner has failed to establish either anticipation or a *prima facie* case of obviousness, and a Notice of Allowance as to claims 15-26 is requested.

Respectfully submitted,



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